

UNITED STATES DISTRICT COURT

for the
Southern District of Illinois

MICHAEL FENCEL)
 _____) Case Number: 19-316-SMY
 _____) (Clerk's Office will provide)
 _____)
 Plaintiff(s)/Petitioner(s))
 v.) ☒ CIVIL RIGHTS COMPLAINT
 _____) pursuant to 42 U.S.C. §1983 (State Prisoner)
JOHN P. BALDWIN, WARDEN, J. LASHBROOK) ☐ CIVIL RIGHTS COMPLAINT
L. SPURER, B. ROBERTSON, GUARDS) pursuant to 28 U.S.C. §1331 (Federal Prisoner)
MS. HILL, KENT E. BERGMAN, JOSHUA) ☐ CIVIL COMPLAINT
KENNER, AND JOHN DOE 1 THROUGH 4) pursuant to the Federal Tort Claims Act, 28 U.S.C.
 Defendant(s)/Respondent(s)) §§1346, 2671-2680, or other law

I. JURISDICTION

Plaintiff:

- A. Plaintiff's mailing address, register number, and present place of confinement.

MICHAEL FENCEL #B-86752
 STATEVILLE CORRECTIONAL CENTER
 P. O. BOX 112
 JOUET, IL 60434

Defendant #1:

- B. Defendant
- JOHN P. BALDWIN
- is employed as
-
- (a) (Name of First Defendant)

ACTING DIRECTOR
 (b) (Position/Title)

with ILLINOIS DEPARTMENT OF CORRECTION
 (c) (Employer's Name and Address)

1301 CONCORDIA COURT, P.O. BOX 19277, SPRINGFIELD, IL 62794-9277

At the time the claim(s) alleged this complaint arose, was Defendant #1 employed by the state, local, or federal government? ☒ Yes ☐ No

If your answer is YES, briefly explain:

DEFENDANT BALDWIN WAS THE ACTING DIRECTOR OF THE ILLINOIS DEPARTMENT OF CORRECTIONS AND IN THAT CAPACITY THE OVERSEER OF (I.D.O.C), AND WAS THE RECIPIENT OF SEVERAL GRIEVANCES MADE BY PLAINTIFF REGARDING THE INCIDENTS CLAIMED IN THIS COMPLAINT. PLAINTIFF SUES BALDWIN IN HIS INDIVIDUAL AND OFFICIAL CAPACITY.

C. Defendant JACQUELINE LASHBROOK is employed as
(Name of [REDACTED] Defendant)

WARDEN
(Position/Title)

with MENARD CORRECTIONAL CENTER / IDOC
(Employer's Name and Address)

P. O. Box 1000, MENARD, IL. 62259

At the time the claim(s) alleged in this complaint arose, was Defendant #2 employed by the state, local, or federal government? ☒ Yes ☐ No

If your answer is YES, briefly explain:

DEFENDANT LASHBROOK DURING THE TIME PERIODS INDICATED IN THIS COMPLAINT WAS THE WARDEN OF MENARD CORRECTIONAL CENTER, AND IN THAT CAPACITY THE DAY TO DAY OVERSEER OF THE FACILITY AND WAS THE RECIPIENT OF SEVERAL GRIEVANCES AND A LETTER SENT TO HER BY THE PLAINTIFF INFORMING HER THAT HE HAD BEEN RAPED, AS SUCH DEFENDANT LASHBROOK KNEW OR SHOULD HAVE KNOWN THAT THESE INCIDENTS OCCURRED. PLAINTIFF SUES LASHBROOK IN HER INDIVIDUAL AND OFFICIAL CAPACITY.

Additional Defendant(s) (if any):

D. Using the outline set forth above, identify any additional Defendant(s).

Defendant #3:

D. Defendant SPILLER is employed as
(a) (Name of [REDACTED] Defendant)

LIEUTENANT
(b) (Position/Title)

with MENARD CORRECTIONAL CENTER / IDOC
(c) (Employer's Name and Address)

P. O. Box 1000, MENARD, IL. 62259

At the time the claim(s) alleged this complaint arose, was Defendant #3 employed by the state, local, or federal government? ☒ Yes ☐ No

If your answer is YES, briefly explain:

Defendant #4:E. Defendant A. MASTERSON is employed as(Name of Defendant)INTERNAL AFFAIRS OFFICER

(Position/Title)

with MENARD CORRECTIONAL CENTER

(Employer's Name and Address)

P. O. Box 1000, MENARD, IL 62259At the time the claim(s) alleged in this complaint arose, was Defendant #4 employed by the state, local, or federal government? ☒ Yes ☐ No

If you answer is YES, briefly explain:

DEFENDANT MASTERSON DURING THE TIME PERIODS INDICATED IN THIS COMPLAINT WAS AN OFFICER WITH INTERNAL AFFAIRS AND INTERVIEWED PLAINTIFF ON NUMEROUS OCCASION BUT TOOK NO STEPS TO INVESTIGATE, INSTEAD SHE ACCUSED PLAINTIFF OF LYING AND TOOK STEPS TO COVER UP THE INCIDENTS CLAIMED IN THIS COMPLAINT. PLAINTIFF SUE MASTERSON IN HER INDIVIDUAL AND OFFICIAL CAPACITY.

Defendant #5:F. Defendant CROSS is employed as(a) (Name of Defendant)CORRECTIONAL OFFICER

(b) (Position/Title)

with MENARD CORRECTIONAL CENTER / INDC

(c) (Employer's Name and Address)

P. O. Box 1000, MENARD, IL 62259At the time the claim(s) alleged this complaint arose, was Defendant #5 employed by the state, local, or federal government? ☒ Yes ☐ No

If your answer is YES, briefly explain:

DEFENDANT CROSS DURING THE TIME PERIODS INDICATED IN THIS COMPLAINT WAS AN CORRECTIONAL OFFICER WHO WAS THE FIRST RECIPIENT OF A LETTER GIVEN TO HIM BY PLAINTIFF INFORMING HIM THAT PLAINTIFF WAS BEING SEXUALLY HARASSED, AND HE TOOK NO STEPS TO INVESTIGATE. THUS, DEFENDANT IS RESPONSIBLE FOR THE CLAIMED ACTS IN THIS COMPLAINT. PLAINTIFF SUE CROSS IN HIS INDIVIDUAL AND OFFICIAL CAPACITY.

Defendant #6:

G. Defendant MS. HILL is employed as

(Name of MS. HILL Defendant)

MENTAL HEALTH COUNSELOR

(Position/Title)

with MENARD CORRECTIONAL CENTER / IDOC

(Employer's Name and Address)

P. O. Box 1000 MENARD, IL 62259

At the time the claim(s) alleged in this complaint arose, was Defendant #6 employed by the state, local, or federal government? ☒ Yes ☐ No

If you answer is YES, briefly explain:

DEFENDANT MS. HILL DURING THE TIME PERIOD INDICATED IN THIS COMPLAINT WAS A MENTAL HEALTH COUNSELOR AT MENARD CORRECTIONAL CENTER WHO PLAINTIFF SPOKE TO ABOUT HIM BEING RAPED BUT SHE TOOK NO STEPS TO INVESTIGATE INSTEAD SHE HELPED IN THE COVER UP BY CLASSIFYING PLAINTIFF AS MENTALLY ILL AND RECOMMENDING HE RECEIVED 6 MONTHS SEGREGATION. PLAINTIFF SUES MS. HILL IN HER INDIVIDUAL AND OFFICIAL CAPACITY.

Defendant #7:

H. Defendant KENT E. BROOKMEN is employed as

(a) (Name of KENT E. BROOKMEN Defendant)

CHAIR PERSON OF THE ADJUSTMENT COMMITTEE

(b) (Position/Title)

with MENARD CORRECTIONAL CENTER / IDOC

(c) (Employer's Name and Address)

P. O. Box 1000 MENARD, IL 62259

At the time the claim(s) alleged this complaint arose, was Defendant #7 employed by the state, local, or federal government? ☒ Yes ☐ No

If your answer is YES, briefly explain:

Defendant #8:

I. Defendant JOSHUA KRUGER #K50216 is employed as(Name of Defendant)WAS AN INMATE AT MENARD CORRECTIONAL CENTER.

(Position/Title)

with NONE

(Employer's Name and Address)

P. O. BOX 1000, MENARD, IL 62259At the time the claim(s) alleged in this complaint arose, was Defendant #8 employed by the state, local, or federal government? ☒ Yes ☒ No

If you answer is YES, briefly explain:

DEFENDANT JOSHUA KRUGER DURING THE TIME PERIOD INDICATED IN THIS COMPLAINT WAS AN INMATE AT MENARD CORRECTIONAL CENTER WHO BEAT AND RAPED PLAINTIFF 3 TIMES. DEFENDANT IS THUS, RESPONSIBLE FOR THE CLAIMED ACTS IN THIS COMPLAINT. PLAINTIFF OUES KRUGER #K50216 IN HIS INDIVIDUAL CAPACITY.

Defendant #9:

J. Defendant LIEUTENANT JOHN DOE #1 (NAME UNKNOWN) is employed as(Name of Defendant)LIEUTENANT

(Position/Title)

with MENARD CORRECTIONAL CENTER IDOC

(Employer's Name and Address)

P. O. BOX 1000, MENARD, IL 62259At the time the claim(s) alleged in this complaint arose, was Defendant #9 employed by the state, local, or federal government? ☒ Yes ☐ No

If you answer is YES, briefly explain:

DEFENDANT LIEUTENANT JOHN DOE #1 (NAME UNKNOWN) DURING THE TIME PERIOD INDICATED IN THIS COMPLAINT WAS A LIEUTENANT AT MENARD CORRECTIONAL CENTER AND WAS THE ONE WHO TOOK PLAINTIFF TO THE HEALTH CARE UNIT BUT TOOK NO STEPS TO INVESTIGATE THE ACTS IN THIS COMPLAINT. PLAINTIFF OUES LIEUTENANT JOHN DOE #1 (NAME UNKNOWN) IN HIS INDIVIDUAL AND OFFICIAL CAPACITY.

Defendant #10:

K. Defendant LIEUTENANT JOHN DOE #1 (NAME UNKNOWN) is employed as

(Name of Defendant)

LIEUTENANT IN NORTH UPPER CELL HOUSE

(Position/Title)

with MENARD CORRECTIONAL CENTER / I.D.O.C.

(Employer's Name and Address)

P O BOX 1000, MENARD, IL 62259

At the time the claim(s) alleged in this complaint arose, was Defendant #10 employed by the state, local, or federal government? ☒ Yes ☐ No

If you answer is YES, briefly explain:

Defendant #11:

L. Defendant CORRECTIONAL OFFICER JOHN DOE #2 (NAME UNKNOWN) is employed as

(a) (Name of Defendant)

CORRECTIONAL OFFICER IN NORTH UPPER CELL HOUSE

(b) (Position/Title)

with MENARD CORRECTIONAL CENTER / I.D.O.C.

(c) (Employer's Name and Address)

P O BOX 1000, MENARD, IL 62259

At the time the claim(s) alleged this complaint arose, was Defendant #11 employed by the state, local, or federal government? ☒ Yes ☐ No

If your answer is YES, briefly explain:

DEFENDANT JOHN DOE #2 (NAME UNKNOWN) DURING THE TIME PERIOD INDICATED IN THIS COMPLAINT WAS A CORRECTIONAL OFFICER AT MENARD CORRECTIONAL CENTER AND WAS ONE OF THE OFFICERS WHO TOOK PLAINTIFF TO THE HEALTH CARE UNIT BUT TOOK NO STEPS TO INVESTIGATE THE ACTS IN THIS COMPLAINT. PLAINTIFF SUES JOHN DOE #2 IN HIS INDIVIDUAL AND OFFICIAL CAPACITY.

Defendant #12:

M. Defendant C/O OF I/A JOHN DOE #3 (NAME UNKNOWN) is employed as

(Name of Defendant)

CORRECTIONAL OFFICER OF INTERNAL AFFAIRS
(Position/Title)

with MENARD CORRECTIONAL CENTER / I.D.O.C.
(Employer's Name and Address)

P.O. BOX 1000, MENARD, IL 62259

At the time the claim(s) alleged in this complaint arose, was Defendant #12 employed by the state, local, or federal government? ☒ Yes ☐ No

If you answer is YES, briefly explain:

DEFENDANT JOHN DOE #3 (NAME UNKNOWN) DURING THE TIME PERIOD INDICATED IN THIS COMPLAINT WAS A CORRECTIONAL OFFICER WITH I/A WHO INTERVIEWED PLAINTIFF AT THE HEALTH CARE UNIT AND HE IMMEDIATELY TOLD PLAINTIFF THAT HE WAS LYING BEFORE HE TOOK ANY STEPS TO INVESTIGATE THE CLAIMS IN THIS COMPLAINT. PLAINTIFF SUES JOHN DOE #3 IN HIS INDIVIDUAL AND OFFICIAL CAPACITY.

Defendant #13:

N. Defendant C/O OF I/A JOHN DOE #4 (NAME UNKNOWN) is employed as

(a) (Name of Defendant)

CORRECTIONAL OFFICER OF INTERNAL AFFAIRS
(b) (Position/Title)

with MENARD CORRECTIONAL CENTER / I.D.O.C.
(c) (Employer's Name and Address)

P.O. BOX 1000, MENARD, IL 62259

At the time the claim(s) alleged this complaint arose, was Defendant #13 employed by the state, local, or federal government? ☒ Yes ☐ No

If your answer is YES, briefly explain:

DEFENDANT JOHN DOE #4 (NAME UNKNOWN) DURING THE TIME PERIOD INDICATED IN THIS COMPLAINT WAS A CORRECTIONAL OFFICER WITH I/A WHO INTERVIEWED PLAINTIFF AT THE HEALTH CARE UNIT AND HE IMMEDIATELY TOLD PLAINTIFF THAT HE WAS LYING BEFORE HE TOOK ANY STEPS TO INVESTIGATE THE CLAIMS IN THIS COMPLAINT. PLAINTIFF SUES JOHN DOE #4 IN HIS INDIVIDUAL AND OFFICIAL CAPACITY.

II. PREVIOUS LAWSUITS

A. Have you begun any other lawsuits in state or federal court while you were in prison or jail (during either your current or a previous time in prison or jail), e.g., civil actions brought under 42 U.S.C. § 1983 (state prisoner), 28 U.S.C. § 1331 (federal prisoner), 28 U.S.C. §§ 1346, 2671-2680, or other law? ☒ Yes ☐ No

B. If your answer to "A" is YES, describe each lawsuit in the space below. If there is more than one lawsuit, you must describe the additional lawsuits on another sheet of paper using the same outline. You must list ALL lawsuits in any jurisdiction, including those that resulted in the assessment of a "strike" under 28 U.S.C. § 1915(g) and/or those that were dismissed for being frivolous, malicious, or for failure to state a claim (see 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e)(2); Federal Rule of Civil Procedure 12(b)(6)). FAILURE TO FULLY DISCLOSE YOUR LITIGATION HISTORY, INCLUDING "STRIKES," MAY RESULT IN SANCTIONS THAT INCLUDE DISMISSAL OF THIS ACTION.

1. Parties to previous lawsuits:

Plaintiff(s): MICHAEL F. FENCEL # B86752

Defendant(s): MENARD CORRECTIONAL CENTER / IDOC

2. Court (if federal court, name of the district; if state court, name of the county): RANDOLPH COUNTY.

3. Docket number: NO-18-CC-0381

4. Name of Judge to whom case was assigned: #26 (JMB)

5. Type of case (for example: Was it a habeas corpus or civil rights action?): SMALL CLAIMS COURT

6. Disposition of case (for example: Was the case dismissed? Was it appealed? Is it still pending?): CASE DISMISSED, NO APPEAL

7. Approximate date of filing lawsuit: AUGUST 14, 2017

8. Approximate date of disposition:

JULY 24, 2018

9. Was the case dismissed as being frivolous, malicious, or for failure to state a claim upon which relief may be granted and/or did the court tell you that you received a "strike?"

III. GRIEVANCE PROCEDURE

A. Is there a prisoner grievance procedure in the institution? ☒ Yes ☐ No

B. Did you present the facts relating to your complaint in the prisoner grievance procedure? ☒ Yes ☐ No

C. If your answer is YES,

1. What steps did you take?

I SUBMITTED A GRIEVANCE TO MY COUNSELOR, AFTER HER RESPONSE I SENT IT TO THE GRIEVANCE OFFICER, THEN TO THE ADMINISTRATIVE REVIEW BOARD.

2. What was the result?

DENIED

D. If your answer is NO, explain why not.

E. If there is no prisoner grievance procedure in the institution, did you complain to prison authorities? ☐ Yes ☐ No

F. If your answer is YES,

1. What steps did you take?

2. What was the result?

- G. If your answer is NO, explain why not.
- H. Attach copies of your request for an administrative remedy and any response you received. If you cannot do so, explain why not:

IV. Statement of Claim:

PLAINTIFF, MICHAEL FENCEL COMPLAINS AGAINST DEFENDANTS JOHN A. BALOWIN, WARDEN J. LASHBROOK, L.T. SPILLER, A. MASTERSON, C/O CROSS, MS. HILL, KENT E. BROOKHORN, JOSHUA W. KRUGER #KSOZIO AND JOHN DOES ONE THROUGH FOUR, AND STATES AS FOLLOWS:

1. THIS IS A CIVIL ACTION BROUGHT PURSUANT TO THE EIGHT AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION TO SEEK MONETARY, COMPENSATORY AND PUNITIVE RELIEF UNDER 42 U. S. C. § 1983, AND TO ADDRESS DEPRIVATIONS OF PLAINTIFF'S CIVIL RIGHTS WHICH WERE PRECIPITATED BY THE UNLAWFUL CRUEL AND UNUSUAL PUNITIVE ACTS OF THE DEFENDANTS ALL WHILE PURPORTING TO ACT UNDER THE COLOE OF LAW.

2. PLAINTIFF, MICHAEL FENCEL, WAS AN INMATE AT THE MENARD CORRECTIONAL CENTER IN ILLINOIS, ON AUGUST 4, 2017 PLAINTIFF WAS MOVED TO THE NORTH UPPERS, CELLHOUSE AND PLACED IN CELL 547 WHERE HE MET HIS NEW CELLMATE DEFENDANT, JOSHUA W. KRUGER #KSOZIO, AFTER PLAINTIFF SETTLED IN, DEFENDANT KRUGER TOLD HIM THAT HE WAS ON PROBATION WHILE LIVING IN THE CELL WITH HIM A MEANING, IF PLAINTIFF FENCEL DID NOT ACT A CERTAIN WAY WHILE CELLIED WITH DEFENDANT KRUGER HE WOULD PUNISH PLAINTIFF FENCEL WHO FELT UNEASY AT THIS POINT.

3. SEVERAL WEEKS WENT BY AND DEFENDANT KRUGER ASKED PLAINTIFF FENCEL TO SHOP AT THE COMMISSARY FOR HIM AND THAT HE WOULD GIVE PLAINTIFF \$20.00 FOR SHOPPING FOR HIM. (INMATES ARE LIMITED TO SPENDING \$100.00 PER SHOP TWICE A MONTH) DEFENDANT WANTED TO DOUBLE SHOP SO PLAINTIFF AGREED BECAUSE HE DID NOT HAVE ANY MONEY IN HIS ACCOUNT AT THE TIME. THE DEFENDANTS BROTHER SENT PLAINTIFF \$100.00 AND ON OCTOBER 3, 2017 PLAINTIFF WENT TO THE COMMISSARY TO SHOP FOR DEFENDANT KRUGER, APPROXIMATELY TWO WEEKS LATER DEFENDANTS MOTHER SENT PLAINTIFF \$100.00 AND AGAIN HE WENT SHOPPING FOR THE DEFENDANT ON OCTOBER 17, 2017. THAT NIGHT THE DEFENDANT TOLD PLAINTIFF "YOU KNOW YOU OWE ME" PLAINTIFF FENCEL ASKED HIM WHAT DID HE OWE HIM AND DEFENDANT KRUGER'S RESPONSE WAS, ILL LET YOU KNOW.

4. DURING THE TIME PERIOD BETWEEN OCTOBER 17, 2017 TO NOVEMBER 4, 2017, DEFENDANT, JOSHUA W. KRUGER #KSOZIO WAS ASKING PLAINTIFF, MICHAEL FENCEL PERSONAL AND SEXUAL QUESTIONS SO PLAINTIFF WAS AFRAID. THE EVENING OF NOVEMBER 4, 2017, DURING CHOW PLAINTIFF GAVE DEFENDANT, C/O CROSS A LETTER INFORMING HIM THAT DEFENDANT, KRUGER HAD BEEN ASKING HIM PERSONAL AND SEXUAL QUESTIONS AND THAT HE WAS AFRAID FOR HIS SAFETY AND PLAINTIFF PLEADED FOR A CELL CHANGE WHICH DEFENDANT, C/O CROSS IGNORED. SOMEHOW DEFENDANT KRUGER FOUND OUT THAT PLAINTIFF FENCEL GAVE DEFENDANT C/O CROSS THE LETTER AND THAT NIGHT DEFENDANT KRUGER BEAT PLAINTIFF, FENCEL BY HITTING HIM REPEATEDLY IN CHEST AND RIBS THEN HE TOLD PLAINTIFF THAT HE WAS NOT MOVING OUT OF THE CELL. ALSO THAT NIGHT PLAINTIFF RECEIVED ANOTHER \$100.00 FROM DEFENDANTS KRUGER'S MOTHER TO SHOP FOR THE DEFENDANT.

5. APPROXIMATELY ONE WEEK WENT BY AND DURING THAT TIME PERIOD AGAIN DEFENDANT JOSHUA KRUGER WAS ASKING PLAINTIFF MICHAEL FENCEL PERSONAL AND SEXUAL QUESTIONS PLAINTIFF WAS AFRAID TO MENTION THIS TO THE C/O'S THIS TIME BECAUSE HIS CELLY, DEFENDANT JOSHUA KRUGER HAD FOUND OUT THE LAST TIME PLAINTIFF TRIED TO INFORMED DEFENDANT, C/O CROSS THAT HE WAS BEING SEXUAL HARASS, THEN ON OR ABOUT NOVEMBER 12, 2017, AT AROUND 10:30 PM DEFENDANT JOSHUA W. KRUGER #KSOZIO RAPED PLAINTIFF, MICHAEL FENCEL BY COMPELLING HIM TO PERFORM ORAL AND ANAL SEX.

6. AFTER THE RAPE, DEFENDANT JOSHUA KRUGER TOLD PLAINTIFF MICHAEL FENCEL HE HAD THREE OPTIONS: 1. TO KEEP HIS MOUTH SHUT AND JUST TAKE IT; 2. THAT IF HE TELL ANYONE HE WOULD BEAT THE SHIT OUT OF PLAINTIFF; AND IF HE TELL ANYONE HE WOULD KILL HIM. THEREFORE, FEARING FOR HIS LIFE, PLAINTIFF MICHAEL FENCEL CHOSE OPTION 1, THEN ON NOVEMBER 19, 2017 DEFENDANT JOSHUA W. KRUGER RAPE PLAINTIFF MICHAEL FENCEL AGAIN BY COMPELLING HIM TO PERFORM ORAL AND ANAL SEX, AND ON NOVEMBER 24, 2017 DEFENDANT ONCE AGAIN RAPE PLAINTIFF BY COMPELLING HIM TO PERFORM ANAL SEX.

7. WITHIN TWO WEEKS, PLAINTIFF MICHAEL FENCEL WAS BEATEN AND RAPED THREE TIMES BY DEFENDANT JOSHUA KRUGER, AND HE COULD NOT TAKE ANYMORE PAINFUL ATTACKS SO ON NOVEMBER 27, 2017 PLAINTIFF REPORTED THE THREE INCIDENTS TO DEFENDANT WARDEN, LASHBROOK BY WRITING HER A LETTER INFORMING HER THAT HIS CELLMATE, DEFENDANT JOSHUA KRUGER "KSOZIK" HAD SEXUAL ASSAULTED HIM 3 TIMES BY COMPELLING PLAINTIFF TO PERFORM ORAL AND ANAL SEX WITH HIM. DEFENDANT WARDEN, LASHBROOK APPARENTLY RECEIVED PLAINTIFF'S LETTER BECAUSE ON NOVEMBER 28, 2017 DEFENDANTS LIEUTENANT JOHN DOE #1 AND CIO JOHN DOE #2 (NAMES UNKNOWN) CAME TO PLAINTIFF FENCEL AND DEFENDANT KRUGER'S CELL. PLAINTIFF WAS ESCORTED TO THE HEALTH CARE UNIT WHERE TWO CIO FROM INTERNAL AFFAIR, JOHN DOES #3 AND #4 (NAMES UNKNOWN) WAS WAITING TO INTERVIEW HIM.

8. WHEN PLAINTIFF TRIED TO EXPLAIN TO THE TWO CIO'S FROM I/A WHAT HE HAD BEEN GOING THROUGH WHILE HE WAS IN THE CELL WITH DEFENDANT KRUGER, ONE OF THE CIO'S FROM I/A JOHN DOE #3 (NAME UNKNOWN) CUT IN STATING, COME ON FENCEL, WE KNOW YOU ARE LYING SO WHAT DO YOU WANT A CELL CHANGE? DEFENDANT CIO FROM I/A JOHN DOE #3, FURTHER STATED THAT WE KNOW DEFENDANT JOSHUA KRUGER "KSOZIK" HAS NOT BEEN IN ANY TROUBLE SINCE HE'S BEEN AT MENARD CORRECTIONAL CENTER, SO IF YOU JUST WANT A CELL CHANGE WE CAN HELP YOU WITH THAT. THEN DEFENDANT JOHN DOE #4, CIO FROM I/A (NAME UNKNOWN) STATED, SO YOUR CELLY GRABBED YOU, PUSHED YOU TO THE BACK OF THE CELL AND DID WHAT? AGAIN, PLAINTIFF TRIED TO EXPLAIN TO THEM THAT DEFENDANT JOSHUA KRUGER HAD FORCE HIS SHORTS AND UNDERWEAR DOWN, BEFORE PLAINTIFF COULD FINISH HIS STATEMENT JOHN DOE #4, CIO FROM I/A (NAME UNKNOWN) STATED, SO YOUR CELLY JUST SAW DOGGED YOU OR WENT THERE LUBRICANT. PLAINTIFF TOLD HIM THAT HIS CELLY, DEFENDANT JOSHUA KRUGER "KSOZIK" PUSHED HIM TO THE BACK OF THE CELL, FORCED HIS SHORTS AND UNDERWEAR DOWN, PUT ON A GLOVE THEN PUT LOTION OR VASOLINE ON IT THEN RAPED HIM.

9. THE TWO CIO'S FROM I/A JOHN DOES #3 AND #4 (NAMES UNKNOWN) KEEPT REPEATING "COME ON FENCEL WE KNOW YOU ARE LYING JUST TELL US WHAT YOU WANT, IF ITS A CELL CHANGE WE CAN HELP YOU WITH THAT. DEFENDANT, JOHN DOE #3 STEPPED OUT OF THE ROOM THEN DEFENDANT, JOHN DOE #4 BECAME AGGRESSIVE WITH PLAINTIFF MICHAEL FENCEL TELLING HIM THAT HE WAS LYING. AT THAT POINT PLAINTIFF TOLD HIM LETS GET ON WITH THE (RAPE) TEST THEN DEFENDANT JOHN DOE #4 STATED, ARE YOU SURE YOU WANT TO GO THROUGH THAT KIND OF EMBARRASSMENT. PLAINTIFF STATED, LETS GET IT OVER WITH. PRESENT DURING THE EXAMINATION WERE DR. SIDDIQUI, TWO NURSES AND THE TWO DEFENDANTS, FROM INTERNAL AFFAIRS CIO'S JOHN DOES #3 AND #4 (NAMES UNKNOWN) WHO MOCKED AND TREATED PLAINTIFF WITH CONTEMPT DURING THE EXAMINATION AND THE ENTIRE INTERVIEW INSTEAD OF INVESTIGATING DEFENDANT JOSHUA KRUGER "KSOZIK" FOR RAPING PLAINTIFF.

10. AFTER THE EXAMINATION WAS COMPLETE, PLAINTIFF WAS KEPT OVERNIGHT FOR OBSERVATION IN THE HEALTH CARE UNIT WHERE HE WAS GIVEN A ROOM, SEVERAL HOURS LATER DEFENDANT CIO FROM I/A JOHN DOE #4 AND THE NURSE CAME INTO THE ROOM TO INFORM PLAINTIFF THAT WHEN HE GOT UP FROM THE EXAMINATION TABLE THEY NOTICED BLOOD WHERE HE WAS SITTING SO THE

NURSE GAVE PLAINTIFF SOME PADS TO CHECK TO SEE IF HE WAS STILL BLEEDING AFTERWARDS THEY LEFT. LATER THAT DAY PLAINTIFF WAS INTERVIEWED BY DEFENDANT CIO A. MASTERSON WHO TOLD PLAINTIFF MICHAEL FENCEL IF HE WAS LYING SHE WOULD MAKE SURE HE SPEND NO LESS THEN ONE YEAR IN SEGREGATION. PLAINTIFF TOLD HER THAT HE WAS NOT LYING AND THAT DEFENDANT JOSHUA KRUGER IN FACT, DID RAPE HIM BY PUSHING PLAINTIFF TO THE BACK OF THEIR CELL, FORCED HIS SHOOTS AND UNDERWEAR DOWN THEN WHILE HOLDING PLAINTIFF DOWN PUT ON A GLOVE THEN RAPED HIM. PLAINTIFF ALSO TOLD DEFENDANT A. MASTERSON THAT DEFENDANTS CIO JOHN DOE #3 AND #4 FROM INTERNAL AFFAIRS (NAMES UNKNOWN) HAD MOCKED HIM AND TREATED HIM WITH CONTEMPT AND IT WAS THEM WHO STARTED IMPLYING THAT PLAINTIFF WAS LYING. DEFENDANT A. MASTERSON REPLIED BY SAYING SHE DID NOT LIKE THEM OR THE WAY THEY CONDUCTED INTERVIEWS AND THAT DEFENDANT JOSHUA KRUGER #KSOZIU PLAINTIFF'S EX-CELLMATE WAS GOING TO TAKE A LIE DETECTOR TEST AND THEN SHE TOLD PLAINTIFF NOT TO NOTIFY OR TELL HIS MOTHER.

11. ON NOVEMBER 30, 2017 PLAINTIFF SPOKE WITH DEFENDANT HILL, A MENTAL HEALTH COUNSELOR WHO TOLD PLAINTIFF THAT FOR THE NEXT 6 MONTHS HE WOULD BE PLACED IN A CELL BY HIMSELF THEN AFTER THAT MENTAL HEALTH WOULD PICK PLAINTIFF'S CELLMATE THAT WAY HE WOULD BE SAFE. PLAINTIFF FENCEL THEN TOLD DEFENDANT HILL THAT DEFENDANT A. MASTERSON TOLD HIM NOT TO TELL HIS MOTHER AND WHAT DID SHE THINK ABOUT THAT, DEFENDANT HILL WAS THAT SHE AGREED WITH DEFENDANT A. MASTERSON. PLAINTIFF MICHAEL FENCEL WAS LATER PLACED IN NORTH-2 CELLHOUSE (SEGREGATION) BY HIMSELF, SEVERAL DAYS LATER HE WAS INTERVIEWED AGAIN BY DEFENDANT A. MASTERSON WHO INFORMED PLAINTIFF THAT SHE RECEIVED A LETTER FROM HIS EX-CELLMATE DEFENDANT JOSHUA KRUGER #KSOZIU STATING THAT HIM AND PLAINTIFF HAD CONSENSUAL SEX, PLAINTIFF MICHAEL FENCEL RESPONDED BY SAY HE WAS LYING. DEFENDANT A. MASTERSON THEN ASKED PLAINTIFF DID HE KNOW ABOUT DEFENDANT KRUGER #KSOZIU BEING A SEXUAL PREDATOR AND SEXUAL ASSAULTING A PREVIOUS CELLMATE AT PONTIAC CORRECTIONAL CENTER, PLAINTIFF'S RESPONSE WAS "NO", AND HE ASKED, SO PRISON OFFICIALS KNEW DEFENDANT KRUGER HAD PREVIOUS SEXUAL ASSAULTED A CELLMATE BUT YOU ALL STILL PLACED ME IN THE CELL WITH HIM. DEFENDANT MASTERSON TOLD PLAINTIFF THAT "I COULD GET INTO TROUBLE FOR TELLING YOU THIS" BUT DEFENDANT KRUGER WAS MISCLASSIFIED HAS A (107) A SEXUAL MISCONDUCT INSTEAD OF A (108) WHICH IS A SEXUAL ASSAULT. SHE THEN TOLD PLAINTIFF THAT SHE COULD PUT HIM IN P.C. AND GET HIM A TRANSFER TO PONTIAC CORRECTIONAL CENTER.

12. ON OR ABOUT DECEMBER 7, 2017, PLAINTIFF FINALLY BROKE DOWN AND TOLD HIS MOTHER THAT HE HAD BEEN SEXUALLY ASSAULTED BY HIS EX-CELLMATE AND THEY DISCUSSED HIM SIGNING INTO PROTECTIVE CUSTODY (P.C.). ON DECEMBER 9, 2017, PLAINTIFF CALLED P. E. A. MOTHER TO INFORM THEM THAT HE HAD BEEN RAPED. ON DECEMBER 21, 2017, PLAINTIFF WAS TAKEN TO P. C. INTAKE AND THE NEXT DAY DEFENDANT MASTERSON WROTE PLAINTIFF A TICKET STATING THAT THE PLAINTIFF MICHAEL FENCEL ADMITTED TO HAVING SEXUAL INTERCOURSE WITH ANOTHER OFFENDER WHO'S NAME AND NUMBER IS BEING WITHHELD FOR THE SAFETY AND SECURITY OF THE INSTITUTION. LATER THAT DAY PLAINTIFF WAS PLACED IN SEG..

13. DEFENDANTS JOHN DOE #3 AND #4 (NAMES UNKNOWN), MS. HILL AND CIO MASTERSON IN A EFFORT TO ESCAPE LIABILITY FOR SHOWING "DELIBERATE INDIFFERENCE" TO PLAINTIFF IN FAILING TO PROTECT HIM FROM BEING BENTEN AND RAPED, THEY IMMEDIATELY STARTED COVERING UP THEIR "NEGLECTANCE" BY REPEATEDLY TELLING PLAINTIFF HE WAS LYING FROM HIS FIRST INTERVIEW WITH INTERNAL AFFAIRS AND IMMEDIATELY BELIEVING THE DEFENDANT JOSHUA KRUGER'S, A SEXUAL PREDATOR'S SIDE OF THE STORY VERSUS THE PLAINTIFF'S, WHO BEFORE HE WAS BENTEN AND RAPE GAVE DEFENDANT CIO CROSS A LETTER INFORMING HIM THAT HE WAS BEING SEXUALLY HARASSED BY DEFENDANT KRUGER. THEY GAVE THE DEFENDANT JOSHUA KRUGER

A LIE DETECTOR TEST BUT NOT THE PLAINTIFF MICHAEL FENCHEL, DEFENDANT MASTERSON FURTHER TRIED TO COVER-UP THEIR NEGLIGENCE BY PROTECTING DEFENDANT KRUGER BY WITHHOLDING HIS NAME AND NUMBER THROUGHOUT THE INVESTIGATION AND ON THE TICKET WHEN HE WAS THE ONE WHO BEAT AND RAPED THE PLAINTIFF.

14. ON JANUARY 2, 2018, THERE WAS A HEARING HELD ON PLAINTIFF'S TICKET FOR SEXUAL MISCONDUCT AND IT WAS DECIDED THAT BASED ON THE INFORMATION PROVIDED, THE COMMITTEE ACCEPTS THE WRITTEN REPORT TO BE FACTUAL ACCOUNTS OF THE INCIDENT, AND MENTAL HEALTH (COUNSELOR, HILL) REVIEWED AND DISCUSSED THE PLAINTIFF'S CASE AND DESIGNATED PLAINTIFF MICHAEL FENCHEL SERIOUSLY MENTALLY ILL AND RECOMMENDED PLAINTIFF RECEIVE 6 MONTHS OF DEQUATION WHICH HE RECEIVED. ALSO, DURING PLAINTIFF'S HEARING THE ADJUSTMENT COMMITTEE ORDER DEFENDANT C/O MASTERSON TO REWRITE PLAINTIFF'S TICKET BECAUSE SHE HAD WITHHELD DEFENDANT KRUGER'S "KSOZIK" IDENTITY ALLEGEDLY FOR THE SAFETY AND SECURITY OF THE INSTITUTION. ON JANUARY 3, 2018, PLAINTIFF'S TICKET WAS REWRITTEN THIS WITH DEFENDANT JOSHUA KRUGER'S NAME AND NUMBER IN IT.

15. IT WAS DOCUMENTED, OR EXPRESSLY NOTED BY PRISON OFFICIALS IN THE PAST THAT DEFENDANT JOSHUA KRUGER "KSOZIK" HAD SEXUALLY ASSAULTED ANOTHER INMATE IN THEIR CELL AND THE DEFENDANTS KNEW, OR SHOULD HAVE KNOWN ABOUT DEFENDANT KRUGER HAD PREVIOUSLY SEXUALLY ASSAULTED ANOTHER CELLMATE. WITHIN A TIME PERIOD OF TWO WEEKS PLAINTIFF MICHAEL FENCHEL WAS SEXUALLY HARASSED, BEATEN AND RAPED THREE TIMES BY DEFENDANT JOSHUA KRUGER IN THEIR CELL. PLAINTIFF REPORTED THE INCIDENTS TO PRISON OFFICIALS BEFORE AND AFTER IT HAPPEN BUT HIS CLAIMS WERE IGNORED AND IN AN EFFORT TO COVER-UP THE PLAINTIFF BEING BEATEN AND RAPED DEFENDANTS, JOHN L. BALDWIN, WARDEN LASHBROOK, LT. SPILLER, C/O MASTERSON, C/O CROSS, MENTAL HEALTH, COUNSEL, MISHU, JOSHUA KRUGER "KSOZIK", AND JOHN DOES "1 THROUGH 4" (NAMES UNKNOWN) ACTED WITH "DELIBERATE INDIFFERENCE" TO PLAINTIFF MICHAEL FENCHEL'S SAFETY BY FAILING TO PROTECT HIM IN VIOLATION OF THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

V. REQUEST FOR RELIEF

State exactly what you want this court to do for you. If you are a state or federal prisoner and seek relief which affects the fact or duration of your imprisonment (for example: illegal detention, restoration of good time, expungement of records, or parole), you must file your claim on a habeas corpus form, pursuant to 28 U.S.C. §§ 2241, 2254, or 2255. Copies of these forms are available from the clerk's office.

A. COMPENSATORY DAMAGES IN THE AMOUNT OF \$50,000, PER EACH DEFENDANT;

B. PUNITIVE DAMAGES IN THE AMOUNT OF \$1,000,000, COLLECTIVELY;

C. DAMAGES FOR PHYSICAL AND MENTAL SUFFERING IN THE AMOUNT OF \$20,000 PER EACH DEFENDANT;

D. PLAINTIFF'S COSTS AND FEES IN PROSECUTING THIS ACTION.

VI. JURY DEMAND (check one box below)

The plaintiff ☒ does ☐ does not request a trial by jury.

DECLARATION UNDER FEDERAL RULE OF CIVIL PROCEDURE 11

I certify to the best of my knowledge, information, and belief, that this complaint is in full compliance with Rule 11(a) and 11(b) of the Federal Rules of Civil Procedure. The undersigned also recognizes that failure to comply with Rule 11 may result in sanctions.

Signed _____
on: _____ (date)

Signature of Plaintiff

Street Address

Printed Name

City, State, Zip

Prisoner Register Number

Signature of Attorney (if any)

Type of Report:

☒ Disciplinary ☐ InvestigativeOFFENDER DISCIPLINARY REPORT
Menard Correctional Facility

Date: 12/22/2017

Offender Name: FENCEL, MICHAEL F.

ID #: B86752

Observation Date: 12/22/2017

Approximate Time: 10:55

☒ a.m.
☐ p.m.

Location: Internal Affairs Office

Offense(s): DR 504:

107 - Sexual Misconduct

Observation: (NOTE: Each offense identified above must be substantiated.) On the above date and approximate time, following an interview, offender FENCEL, Michael F. B86752 admitted to having sexual intercourse with another offender (whose name and number are being withheld for the safety and security of the institution). Due to offender FENCEL's admission to having consensual intercourse, offender FENCEL B86752 is in violation of DR 504A; 107; Sexual Misconduct. FENCEL was identified by his state issued ID card and Institutional Graphics. EOR

Witness(es):

☐ Check if Offender Disciplinary Continuation Page, DOC 0318, is attached to describe additional facts, observations or witnesses.

C/O A. Masterson

7552

Reporting Employee (Print Name)

Badge #

Signature

12/22/2017

Date

11:10

Time

☒ a.m.
☐ p.m.

Disciplinary Action:

Shift Review: ☒ Temporary Confinement☐ Investigative Status

Reasons:

Printed Name and Badge #

Shift Supervisor's Signature

(For Transition Centers, Chief Administrative Officer)

Date

Reviewing Officer's Decision:

Confinement reviewed by Reviewing Officer

Comment: I concur

☒ Major Infraction, submitted for Hearing Investigator, if necessary and to Adjustment Committee☐ Minor Infraction, submitted to Program Unit

Print Reviewing Officer's Name and Badge #

Reviewing Officer's Signature

Date

☒ Hearing Investigator's Review Required (Adult Correctional Facility Major Reports Only):

Print Hearing Investigator's Name and Badge #

Hearing Investigator's Signature

Date

Procedures Applicable to all Hearings on Investigative and Disciplinary Reports

You have the right to appear and present a written or oral statement or explanation concerning the charges. You may present relevant physical material such as records or documents.

Procedures Applicable to Hearings Conducted by the Adjustment Committee on Disciplinary Reports

You may ask that witnesses be interviewed and, if necessary and relevant, they may be called to testify during your hearing. You may ask that witnesses be questioned along lines you suggest. You must indicate in advance of the hearing the witnesses you wish to have interviewed and specify what they could testify to by filling out the appropriate space on this form, tearing it off, and returning it to the Adjustment Committee. You may have staff assistance if you are unable to prepare a defense. You may request a reasonable extension of time to prepare for your hearing.

☒ Check if offender refused to sign

Offender's Signature

ID#

Serving Employee (Print Name)

Badge #

Signature

Date Served

Time Served

☐ a.m.
☐ p.m.☐ I hereby agree to waive 24-hour notice of charges prior to the disciplinary hearing.

Offender's Signature

ID#

(Detach and Return to the Adjustment Committee or Program Unit Prior to the Hearing)

Date of Disciplinary Report

Print offender's name

ID#

I am requesting that the Adjustment Committee or Program Unit consider calling the following witnesses regarding the Disciplinary Report of the above date:

Print Name of witness

Witness badge or ID#

Assigned Cell
(if applicable)

Title (if applicable)

Witness can testify to:

Print Name of witness

Witness badge or ID#

Assigned Cell
(if applicable)

Title (if applicable)

Witness can testify to:

Type of Report:
☒ Disciplinary ☐ Investigative

Offender Disciplinary Report
Menard Correctional Center
 Facility

Date: 01/03/2018

Received
 on 3/6/19

Offender Name: Michael F. Fencel

ID #: B86752

Observation Date: 11/28/2017

Approximate Time: 9:37

☒ a.m.
☐ p.m.

Location: Menard Health Care Unit

Offense(s): DR 504:

107: Sexual Misconduct

Observation: (NOTE: Each offense identified above must be substantiated.) This Offender Disciplinary Report is being issued as a rewrite as directed by the Menard Adjustment Committee at the conclusion of an investigation conducted by the Menard Investigations Unit. Through the course of the investigation, offender MICHAEL F. FENCEL B86752 was interviewed multiple times regarding his claim of PREA/Sexual Assault. On December 21, 2017, FENCEL was interviewed again for a Protective Custody Intake interview. During the interview, FENCEL self-admitted that he had consensual anal intercourse with offender JOSHUA W. KRUGER K50216 on November 26, 2017 at approximately 10:30pm to 11:00pm in North Upper Cell House Cell 5-47. FENCEL stated in the interview that after the encounter on the 26th, he felt wrong for his willingness to perform sexual acts with KRUGER and reported the sexual acts as PREA/Sexual Assault to the Warden via letter. KRUGER volunteered to a CVSA and was found truthful in his statements that he did not sexually assault FENCEL and that they planned to have sex that evening. The results of KRUGER's CVSA corroborate FENCEL's self-admission that the two had consensual anal intercourse. Based on these facts, FENCEL is guilty of violating Departmental Rule 504A; 107, Sexual Misconduct. Offender FENCEL was identified by state issued ID card and Institutional Graphics. EOR

Witness(es):

☐ Check if Offender Disciplinary Continuation Page, DOC 0312, is attached to describe additional facts, observations or witnesses.

C/O A. Masterson	7552	<i>A. Masterson</i>	01/03/2018	7:45	<input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Reporting Employee (Print Name)	Badge #	Signature	Date	Time	

Disciplinary Action:					
Shift Review: <input checked="" type="checkbox"/> Temporary Confinement		<input type="checkbox"/> Investigative Status		Reasons: <i>Nature of offense</i>	
Printed Name and Badge # <i>521</i>		Shift Supervisor's Signature <i>[Signature]</i>		Date <i>1/3/18</i>	
		(For Transition Centers, Chief Administrative Officer)			
Reviewing Officer's Decision: <input checked="" type="checkbox"/> Confinement reviewed by Reviewing Officer Comment: <i>100% CURE</i>					
<input checked="" type="checkbox"/> Major Infraction, submitted for Hearing Investigator, if necessary and to Adjustment Committee					
<input type="checkbox"/> Minor Infraction, submitted to Program Unit					
Print Reviewing Officer's Name and Badge # <i>517</i>		Reviewing Officer's Signature <i>[Signature]</i>		Date <i>1-3-18</i>	
<input checked="" type="checkbox"/> Hearing Investigator's Review Required (Adult Correctional Facility Major Reports Only):					
Print Hearing Investigator's Name and Badge # <i>[Signature]</i>		Hearing Investigator's Signature <i>[Signature]</i>		Date <i>1/8</i>	

Procedures Applicable to all Hearings on Investigative and Disciplinary Reports

You have the right to appear and present a written or oral statement or explanation concerning the charges. You may present relevant physical material such as records or documents.

Procedures Applicable to Hearings Conducted by the Adjustment Committee on Disciplinary Reports

You may ask that witnesses be interviewed and, if necessary and relevant, they may be called to testify during your hearing. You may ask that witnesses be questioned along lines you suggest. You must indicate in advance of the hearing the witnesses you wish to have interviewed and specify what they could testify to by filling out the appropriate space on this form, tearing it off, and returning it to the Adjustment Committee. You may have staff assistance if you are unable to prepare a defense. You may request a reasonable extension of time to prepare for your hearing.

☒ Check if offender refused to sign

<i>[Signature]</i>	Offender's Signature	<i>13684</i>	Badge #	ID# <i>[Signature]</i>
Serving Employee (Print Name)				Signature
<i>1-3-18</i>	Date Served	<i>3:50</i>	Time Served	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

☐ I hereby agree to waive 24-hour notice of charges prior to the disciplinary hearing.

Offender's Signature

ID#

(Detach and Return to the Adjustment Committee or Program Unit Prior to the Hearing)

Date of Disciplinary Report

Print offender's name

ID#

I am requesting that the Adjustment Committee or Program Unit consider calling the following witnesses regarding the Disciplinary Report of the above date:

<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	
Print Name of witness	Witness badge or ID#	Assigned Cell (if applicable)	Title (if applicable)

Witness can testify to:

Print Name of witness	Witness badge or ID#	Assigned Cell (if applicable)	Title (if applicable)

Witness can testify to:

JAN 05 1987

Counselor's Response (If applicable)		
Date Received: ____/____/____	<input type="checkbox"/> Send directly to Grievance Officer	<input type="checkbox"/> Outside jurisdiction of this facility. Send to Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277
Response: _____		

_____ Print Counselor's Name	_____ Counselor's Signature	_____ Date of Response

Distribution: Master File; Offender

ILLINOIS DEPARTMENT OF CORRECTIONS
OFFENDER'S GRIEVANCE (Continued)

4) 10% of the blame goes on me for having poor judgement and not finding out what I was agreeing to in the first place when I accepted the \$10. to start a store, so I could relieve the stress off of my family from trying to send me money when they are struggling to survive out there themselves, I am guilty for being a (DUMBASS) and NOT asking what I am going to owe him in return. So I think this ticket should be Dismissed and I am asking for a Transfer to either Pontiac or Dixon C.C. and be allowed to stay in P.C. status with a ONE man/cell status Permittly. So This can Never Happen ever again. Otherwise I will continue to Grieve this ticket all the way to Springfield and Then IF I have to I will file a (1983 Lawsuit)! Because I had NO CLUE that I was in the cell with a Predator who has been misclassified By The IDOC. The Choice is up to you... Because Menard's Staff And I/A officer's knew about Joshua W. Kruger. K-50216 being misclassified and Did Nothing about it to keep the other inmates SAFE from being Harmed or taken advantage of by This specific inmate that is a Predator!!!!

- END OF Grievance -

ILLINOIS DEPARTMENT OF CORRECTIONS
RESPONSE TO OFFENDER'S GRIEVANCE

Grievance Officer's Report

Date Received: January 5, 2018 Date of Review: January 16, 2018 Grievance # (optional): 21-1-18Offender: Fencel, Michael ID#: B86752

Nature of Grievance: Disciplinary Report dated 12-22-17 issued by Internal Affairs Officer Masterson for 107-Sexual Misconduct (201800004/1-MEN)

Facts Reviewed: All information submitted to the Grievance Officer by the offender or institutional staff pertaining to this issue(s) being grieved has been thoroughly reviewed. Offender submitted a grievance dated 1-4-17 and grieves a disciplinary report he notes as dated 1-3-2018 (no record of IDR for this date) issued by CO Masterson for 107-Sexual Misconduct. Offender states he is 90 % not guilty and 10 % guilty. Offender states IA knew about cellmate Kruger K50216 being a predator and assaulting a previous cellmate. Menard knew about Kruger and still gave him a cellmate. Offender states he is 10 % guilty for poor judgement and accepting \$20 to start a store and not asking what he would have to do in return. Offender states this disciplinary report should be expunged and he wants a transfer to Pontiac or Dixon and allowed to stay in protective custody, or he will continue to file grievances and a lawsuit if he has to.

Relief requested: Dismiss disciplinary report, make sure everyone is classified correctly.

Records show offender was housed in protective custody intake status starting 7-27-17 and voluntarily quit/left pc on 8-4-17. Offender was then PC intake status again starting 12-11-17 until he was placed in temporary confinement on 12-22-17 and subsequently issued a disciplinary report for 107-Sexual misconduct by Menard Internal Affairs (offender admitted to consensual sexual intercourse with another inmate. Records show offender is disciplinary status due to this disciplinary report.

Offender should discuss his transfer options with his assigned Counselor. Transfers are an administrative decision. Offender is encouraged to discuss his request for transfer review with his assigned counselor. Offender is advised to immediately report any safety issues to staff, and request protective custody placement when his segregation sentence is complete.

Placement is an administrative decision. All offenders are screened and housed where determined appropriate for safety and security of the offender, staff, and facility. Single and double cell status is an administrative decision.

The disciplinary report was heard on 1/2/2018 and the offender found guilty of the infraction. The CAO concurred with Internal Affairs and the adjustment committee findings.

Grievance Office recommends this disciplinary stand as written and heard.

All offenders may submit grievances in accordance with DR504F. Litigation is beyond the scope of this office.

Recommendation: Based upon a total review of all available information, it is the recommendation of this Grievance Officer that the inmate's grievance be DENIED. Grievance Office finds the disciplinary report to be written and heard in accordance with DR504. Transfers are an administrative decision. Contact your assigned counselor for submission of transfer review when eligible. All offenders are screened and housed where deemed most appropriate for safety and security.

Kelly Pierce

Menard Correctional Center
Print Grievance Officer's Name

(Attach a copy of Offender's Grievance, including counselor's response if applicable)

Grievance Officer's Signature

Chief Administrative Officer's Response

Date Received: February 8, 2018☒ I concur☐ I do not concur☐ Remand

Comments:

Chief Administrative Officer's Signature

Date

Offender's Appeal To The Director

I am appealing the Chief Administrative Officer's decision to the Director. I understand this appeal must be submitted within 30 days after the date of the Chief Administrative Officer's decision to the Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277. (Attach a complete copy of the original grievance, including the counselor's response, if applicable, and any pertinent documents.)

Offender's Signature

ID#

Date

ILLINOIS DEPARTMENT OF CORRECTIONS
OFFENDER'S GRIEVANCE

RECEIVED

JAN 04

Date: <u>1/3/2018</u>	Offender: <u>Michael Ferice/</u> (Please Print)	ID#: <u>B-86752</u>
Present Facility: <u>Menard C. C.</u>	Facility where grievance issue occurred: <u>Menard C. C.</u>	
NATURE OF GRIEVANCE: <input type="checkbox"/> Personal Property <input type="checkbox"/> Mail Handling <input type="checkbox"/> Restoration of Good Time <input type="checkbox"/> ADA Disability Accommodation <input type="checkbox"/> Staff Conduct <input type="checkbox"/> Dietary <input type="checkbox"/> Medical Treatment <input type="checkbox"/> HIPAA <input type="checkbox"/> Transfer Denial by Facility <input type="checkbox"/> Transfer Denial by Transfer Coordinator <input checked="" type="checkbox"/> Other (specify): <u>107: Sexual Misconduct</u>		
<input checked="" type="checkbox"/> Disciplinary Report: <u>01, 03, 2018</u> <u>Menard Corr. Ctr. / C/O A. Masterson Badge #7552</u> Date of Report Facility where issued		
<p>Note: Protective Custody Denials may be grieved immediately via the local administration on the protective custody status notification.</p> <p>Complete: Attach a copy of any pertinent document (such as a Disciplinary Report, Shakedown Record, etc.) and send to: Counselor, unless the issue involves discipline, is deemed an emergency, or is subject to direct review by the Administrative Review Board. Grievance Officer, only if the issue involves discipline at the present facility or issue not resolved by Counselor. Chief Administrative Officer, only if EMERGENCY grievance. Administrative Review Board, only if the issue involves transfer denial by the Transfer Coordinator, protective custody, involuntary administration of psychotropic drugs, issues from another facility except personal property issues, or issues not resolved by the Chief Administrative Officer.</p> <p>Summary of Grievance (Provide information including a description of what happened, when and where it happened, and the name or identifying information for each person involved): <u>NOW THAT I sit and think about the day that Josh Kruger my celly at the time we were in the North upper 547, Asked me to shop for him, he would give me \$20 to start a store and one day I would have to repay the favor! Well I would never had thought that he would ask for any kind of sexual favor's and it DID NOT Dawn on me until I received this ticket and thought really hard about the interview I had with C/O L.T. Spiller of the Menard Investigation Unit. After the first (second) time of Giving anal sex we were square. But the 3rd time just like C/O L.T. Spiller even said that he believes I was raped! C/O L.T. Spiller even said that "we did this to ourselves by putting limits on everything". I am so SORRY for being an IDIOT and trying to support myself by shopping for other people, and trying to relieve the stress on my family by them trying to send me money so I could get what I need. I wish I could go back and tell Josh that there is NO Deal. But I can't, I can only move forward and I am going to stop shopping for other inmates so I →</u></p> <p>Relief Requested: <u>I am requesting to be placed in a one man cell status permanently, talk to Mental Health Staff to see where my head is at and I am Requesting to be transferred to either Pontiac or Dixon C. C. also to be able to have my T.V. & things plus to stay in Protective Custody status.</u></p> <p><input type="checkbox"/> Check only if this is an EMERGENCY grievance due to a substantial risk of imminent personal injury or other serious or irreparable harm to self.</p> <p><u>Michael Ferice/</u> <u>B-86752</u> <u>01, 03, 2018</u> Offender's Signature ID# Date </p>		

(Continue on reverse side if necessary)

RECEIVED

Counselor's Response (if applicable)		JAN 05 2018
Date Received: <u>1/1/18</u>	<input type="checkbox"/> Send directly to Grievance Officer	<input type="checkbox"/> Outside jurisdiction of this facility. Send to Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277
Response: _____		

Print Counselor's Name	Counselor's Signature	Date of Response

EMERGENCY REVIEW		RECEIVED
Date Received: <u>1/1/18</u>	Is this determined to be of an emergency nature?	JAN 04 2018
<input checked="" type="checkbox"/> Yes; expedite emergency grievance		E23
<input type="checkbox"/> No; an emergency is not substantiated. Offender should submit this grievance in the normal manner.		
<u>[Signature]</u> Chief Administrative Officer's Signature		<u>1/5/18</u> Date

ILLINOIS DEPARTMENT OF CORRECTIONS
OFFENDER'S GRIEVANCE (Continued)

Don't have to ~~even~~ agree to do anything else for anyone else. I will stay to myself just like I did when I first got to Menard. This is my first time in prison and been here long enough and heard of shit like this but never paid any attention cause it did not pertain to me. I will straighten everything out with my family. They could care less about some damn money, they just would prefer for me to be SAFE so nothing like this could ever happen again. Cause I am an easy target for people that have been locked up longer than me. Plus if someone offers to give money to me I always don't think before saying ok. But I am DONE shopping for people. This makes me look like a REALLY BIG FUCKING MORON, a loser, a piece of SHIT, a white TRASH person who will agree to anything. A RETARDED white punk, Jackass fag who is a fucking scum of the EARTH!! I have a low self of a Drive/Motivation to just say NO. I have NO clue why I let people treat me like shit or allow them to tell me what to do when ever they feel like it. I have always hurt myself after I let someone tell me what to do. Cause after I done what they asked me to do, I have time to think and get down on myself REALLY HARD. Plus the only thing that is STOPPING me from doing anything to hurt myself right now is that I have Nephews that I want to meet and get to be in their life. And not someone they can't talk to any more or have a picture of and say this was my uncle that I NEVER got to meet or got to know. ^{cause} he felt that he let the family down cause he was NOT strong enough to say NO. Cause he was in prison, I also don't want my nephews to feel ashamed of me and I just REALLY think my family would do better without me in their lives. I HATE MYSELF for being a weak person, I HATE MYSELF for taking someone's life that was a friend, I HATE MYSELF for being so far from home and NOT being able to see my family to HELP me cope with all of the thoughts that are in my head on how to HURT myself. When I talk to mom I suppress some of my thoughts but that is only temporary until my thoughts come back. That's part of why I have been trying to get my T.V. Cause I have been fucked up since I was a kid. My family has always worried about me and when they will receive the phone call that's telling them that I finally took my own life. I am SO SORRY for being such a fuck up and I really can't take being so far away from my family VERY much longer. Please HELP ME to get closer to my ^{family} so I don't do anything that I might regret. also with my low body weight I am asking to be in a one man cell status permanently that way there this could never happen ever again. And you should make sure that everyone is classified right next time. (I would) like to just say that I'm Really sorry to C/O A. Masterson for not telling her about the first two times cause I thought we were square. Never thought he would want more from me.

"END OF GRIEVANCE"

Received in the
Mail on 1/16/2018ILLINOIS DEPARTMENT OF CORRECTIONS
RESPONSE TO OFFENDER'S GRIEVANCE

ND-4-37

Grievance Officer's Report

Date Received: January 5, 2018 Date of Review: January 5, 2018 Grievance # (optional): 76-1-18Offender: Fencel, Michael ID#: B86752Nature of Grievance: Placement - Single Cell & Mental Health Assistance

Facts Reviewed: All information submitted to the Grievance Officer by the offender or institutional staff pertaining to this issue(s) being grieved has been thoroughly reviewed. Offender submitted a grievance dated 1-3-17 and refers to sexual issues with a cellmate. Offender requests single cell status, transfer, and help to cope.

Relief requested: Single cell status, speak to Mental Health, transfer, TV, and stay in PC.

This grievance was received by the Grievance Office for regular grievance review. Even though offender did not mark for emergency review, due to content it was forwarded to the Warden for emergency determination, and also forwarded to Mental Health and Investigations at that time. The Warden determined to be of emergency nature and forwarded to the Grievance Office for processing. The Grievance Office received on 1-5-18 for processing and advised Mental Health, Investigations, and Clinical Services that the grievance was determined of emergency nature. The sexual related issues are already under investigation prior to this grievance receipt.

Offender has already been interviewed by Investigations regarding this issue and was placed in temporary confinement in North Two on 12-22-17. Offender has been issued a disciplinary report for 107-Sexual Misconduct which is pending adjustment committee hearing at the time of this grievance review (1-5-18).

Placement is an administrative decision. All offenders are screened and housed where determined appropriate for safety and security of the offender, staff, and facility.

Records show offender was housed in protective custody intake status in August 2017 and voluntarily quit. Offender was then PC intake status again starting 12-11-17 until he was placed in temporary confinement on 12-22-17.

Offender should discuss his transfer options with his assigned Counselor.

Offender is advised to immediately report any safety issues to staff.

Offender is pending a disciplinary hearing and is advised allowed personal property (including television) is subject to policy and procedure. Please review your orientation manual for further information on allowed personal property in segregation.

Mental Health advised they have been communicating with offender regarding his grievance concerns.

Recommendation: Based upon a total review of all available information, it is the recommendation of this Grievance Officer that the inmate's grievance be MOOT. Issue already under investigation. Offender may request PC if he is found innocent at his adjustment committee hearing or when his segregation sanction is complete if found guilty. Offender was previously PC intake status. Transfers are an administrative decision. You may discuss options with your assigned counselor. Mental Health has been advised of your request. Single/double cell status is an administrative decision. Audio visual privileges in segregation are in accordance with policy and procedure.

Lori Oakley Menard Correctional Center
Print Grievance Officer's Name

(Attach a copy of Offender's Grievance, including counselor's response if applicable)

[Signature]
Grievance Officer's Signature

Chief Administrative Officer's Response

Date Received: January 11, 2018 ☒ I concur ☐ I do not concur ☐ Remand

Comments:

[Signature]
Chief Administrative Officer's Signature

1/11/18
Date

Offender's Appeal To The Director

I am appealing the Chief Administrative Officer's decision to the Director. I understand this appeal must be submitted within 30 days after the date of the Chief Administrative Officer's decision to the Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277. (Attach a complete copy of the original grievance, including the counselor's response, if applicable, and any pertinent documents.)

Michael Fencel
Offender's Signature

B-86752
ID#

1/22/2018
Date

C/O CROSS,
I ~~am~~^{am} very uncomfortable with my celly cause
he is asking me personal-sexual questions.
I am afraid and I would like a cell change.
Please Michael Fencel B86752
NU-547

My Copy
Gave To C/O cross on 11/06/17

Dear, Warden J. Lashbrook.

Nov. 26th 2017

My Cell-Mate had just forced me to have sex
with him last night on Nov. 26th 2017 (Between 10:30 PM,
and 11 PM) during shift change. I do not trust the
C/O's so that is why I am sending it to you.
Please HELP ME!

Michael Fencel B-86752
NU 547

Bruce Rauner
Governor

received
on 2/26/2018



John Baldwin
Acting Director

The Illinois Department of Corrections

1301 Concordia Court, P.O. Box 19277 • Springfield, IL 62794-9277 • (217) 558-2200 TDD: (800) 526-0844

Offender: Fencel, Michael

2/8/18

ID#: B86752

Date

Facility: Menard

This is in response to your grievance received on 2/6/18. This office has determined the issue will be addressed without a formal hearing. A review of the Grievance, Grievance Officer/CAO response to the grievance has been conducted. For a grievance that is direct review by the ARB, a review of the Grievance has been conducted.

Your issue regarding: Grievance dated: 1/3/18 Grievance Number: 76-1-18 Griev Loc: MEN

- ☐ Transfer denied by the Facility
- ☐ Dietary _____
- ☐ Personal Property _____
- ☐ Mailroom/Publications _____
- ☒ Assignment (job, cell) Single Cell
- ☐ Commissary / Trust Fund _____
- ☐ Conditions (cell conditions, cleaning supplies, etc.) _____
- ☐ Disciplinary Report: Dated: _____ Incident # _____
- ☐ Other _____

Based on a review of all available information, this office has determined your grievance to be:

- ☐ Affirmed, Warden _____ is advised to provide a written response of corrective action to this office by _____.
- ☐ Denied, in accordance with DR504F, this is an administrative decision.
- ☒ Denied, this office finds the issue was appropriately addressed by the facility Administration.
- ☐ Denied as the facility is following the procedures outlined in DR525.
- ☐ Denied as procedures were followed in accordance with DR 420 for removal/denial of an offender from/for an assignment.
- ☐ Denied as this office finds no violation of the offender's due process in accordance with DR504.80 and DR504.30. This office is reasonably satisfied the offender committed the offense cited in the report.
- ☐ Other: _____

FOR THE BOARD:

Patty Thull
Patty Thull
Administrative Review Board

CONCURRED:

John R. Baldwin
John R. Baldwin
Acting Director
2/7/18

CC: Warden, Menard Correctional Center
Fencel, ID# B86752

Mission: To serve justice in Illinois and increase public safety by promoting positive change in offender behavior, operating successful reentry programs, and reducing victimization.

www.illinois.gov/idoc

Offender Name: Fencel, Michael
Last, First M.I.

ID#: B86752

Part I: Incident Information

Incident Date: _____ Incident Time: _____ ☐ a.m. ☐ p.m. Facility where incident occurred: _____
Incident Location (area within Facility, i.e. housing unit, dietary, yard, etc.): _____
Offense(s): _____ 504: _____
504: _____ See Attached 504: _____
504: _____ 504: _____
Total Segregation Time Received for Incident under Review: _____

Part II: Review Summary and Recommendation

- Total segregation time offender has served at time of Committee review: _____
 - Subsequent offenses while in segregation (include date of incident, offense number and resulting penalty received): _____
 - Narrative of review (Include Mental Health, Medical and security recommendation(s); documents/files reviewed; names and testimony of advisory staff, and basis for committee recommendation): Based on a review of the mental health file and in consideration of Inmate's diagnosis and IDE's, it is recommended that I/M receive a 2 week seg cut.
- [If additional space is needed, continue on Side 2.]
- Committee Recommendation:
 - ☐ No Changes Recommended
 - ☐ Terminate Segregation Confinement
 - ☒ Reduce Segregation Time (Indicate recommended reduction): 2 week seg cut.
 - ☒ Other: _____

Part III: Committee Signatures

Committee Member (Mental Health Representative):
R. Gorman [Signature] 5/16/18
Print Name Signature Date
Committee Member (Operations Representative):
Mr. Hughes 523 [Signature] 5/16/18
Print Name Badge# Signature Date

Part IV: Approval and Determination of Action

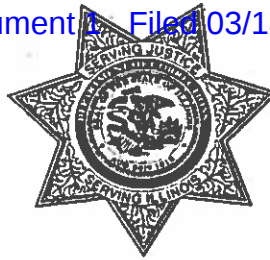
The recommendation of the Committee is: ☒ Approved ☐ Not Approved
Comments: 2 week seg cut
[If additional space is needed, continue on Side 2.]
Chief Administrative Officer:
J. Lashbrook [Signature] 5/17/18
Print Name Signature Date

5/28/18

Bruce Rauner
Governor

John Baldwin
Acting Director

received
on 4/17/2018



The Illinois Department of Corrections

1301 Concordia Court, P.O. Box 19277 • Springfield, IL 62794-9277 • (217) 558-2200 TDD: (800) 526-0844

Offender: Fencel, Michael

3/27/18

Date

ID# : B86752

Facility: menard

This is in response to your grievance received on 2/22/18. This office has determined the issue will be addressed without a formal hearing. A review of the Grievance, Grievance Officer/CAO response to the grievance has been conducted. For a grievance that is direct review by the ARB, a review of the Grievance has been conducted.

Your issue regarding: Grievance dated: 1/4/18 Grievance Number: 91-1-18 Griev Loc: MEN

- ☐ Transfer denied by the Facility
- ☐ Dietary _____
- ☐ Personal Property _____
- ☐ Mailroom/Publications _____
- ☐ Assignment (job, cell) _____
- ☐ Commissary / Trust Fund _____
- ☐ Conditions (cell conditions, cleaning supplies, etc.) _____
- ☒ Disciplinary Report: Dated: 1/2/18 Incident # 201800004/1
- ☐ Other _____

Based on a review of all available information, this office has determined your grievance to be:

- ☐ Affirmed, Warden _____ is advised to provide a written response of corrective action to this office by _____.
- ☐ Denied, in accordance with DR504F, this is an administrative decision.
- ☐ Denied, this office finds the issue was appropriately addressed by the facility Administration.
- ☐ Denied as the facility is following the procedures outlined in DR525.
- ☐ Denied as procedures were followed in accordance with DR 420 for removal/denial of an offender from/for an assignment.
- ☒ Denied as this office finds no violation of the offender's due process in accordance with DR504.80 and DR504.30. This office is reasonably satisfied the offender committed the offense cited in the report.
- ☐ Other: This office finds no reason to discount the issued report. Offender needs to contact counselor concerning a transfer

FOR THE BOARD:

Patty Thull
Patty Thull
Administrative Review Board

CONCURRED:

John R. Baldwin
John R. Baldwin
Acting Director
3/28/18

CC: Warden, Menard Correctional Center
Fencel ID# B86752

Mission: To serve justice in Illinois and increase public safety by promoting positive change in offender behavior, operating successful reentry programs, and reducing victimization.

www.illinois.gov/idoc

Bruce Rauner
Governor

Received
on 2/28/2018



John Baldwin
Acting Director

The Illinois Department of Corrections

1301 Concordia Court • P.O. Box 19277 • Springfield, IL 62794-9277 • (217) 558-2200 TDD: (800) 526-0844

MEMORANDUM

DATE: February 13, 2018

TO: Michael Fencel B86752
Offender Name Offender Number

FROM: Jacqueline Lashbrook
Chief Administrative Officer

SUBJECT: Victim Notification of Completed PREA Investigation Findings

On 11/28/2017, you made an allegation concerning conduct by an individual that is covered by the Prison Rape Elimination Act of 2003. After investigating the allegations, the results of our investigation determined that:

☐ Allegations are Substantiated ☐ Allegations are Unsubstantiated ☒ Allegations are Unfounded

Explanation: Based on the admission of a consensual sexual relationship from both offenders and the results of the CVSA exam on the alleged perpetrator, the allegations of PREA/sexual assault are unfounded.

The investigation findings may be grieved in accordance with 20 Ill. Adm. Code 504 and Administrative Directives 04.01.114 and 04.01.115.

Any counseling or supportive services, such as psychological services, chaplaincy services, correctional counselors, group therapy, etc. will continue to be offered.

This serves as an official notification of the outcome of the allegation/allegations.

Sincerely,

J. [Signature]
Chief Administrative Officer Signature

Mission: To serve justice in Illinois and increase public safety by promoting positive change in offender behavior, operating successful reentry programs, and reducing victimization.

received on
5/6/18Offender Name: Fencel MichaelID#: B86752

Disciplinary notification received from Shift Commander: <u>12/22/17</u> Date	Facility: <u>Menard</u>
Disciplinary Report (DOC 0317) received: <u>12/22/17</u> Date	<input type="checkbox"/> Sp/RTU <input checked="" type="checkbox"/> SEG <input type="checkbox"/> GP
Action: <input type="checkbox"/> Stay of continuance until further notice <input type="checkbox"/> Resume proceedings	<input type="checkbox"/> R&C <input type="checkbox"/> HCU <input type="checkbox"/> PC

Date and Time of Original Disciplinary Report (DOC 0317): 12/22/2017 1055 ☒ a.m.
☐ p.m.

List Offense(s):

107 Sexual misconductLevel of Care: ☐ Acute Inpatient ☐ Sub-acute Inpatient ☐ Sp/RTU ☒ Outpatient ☐ CrisisWas the offender on crisis watch at the time of offense? ☒ No ☐ YesIs the offender currently on crisis watch? ☒ No ☐ YesCurrent mental status: ☒ Stable ☐ Not StableMental Health Summary: Offender Fencel as been seen on a routine basis by Mental Health thru means of individual sessions.

Offender Fencel appears to be stable at this time, offender Fencel is not on any current psychotropic medications. According to
offenders. Offender Fencel's mental health issues do not appear to have influenced his behavior with regards to the tickets he
received on 12/22/17. Offender Fencel has the capabilities to be held accountable for his actions at this time.

370

ILLINOIS DEPARTMENT OF CORRECTIONS
MENTAL HEALTH DISCIPLINARY REVIEWOffender Name: Fencel MichaelID#: B86752Based on offender's mental health status and mental illness it is the reviewing MHP's **OPINION** that:

- | | No | Yes |
|---|-------------------------------------|--------------------------|
| • The offenders mental illness contributed to the behavior at issue and as reported on the DOC 0317: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • Confinement in segregation is likely to significantly impact the offender's mental health: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • The offenders mental illness should be considered when imposing discipline (up to and including segregation): | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Recommendations:Proposed segregation term: 6 months

- ☐ Consider reduced segregation time
- ☐ C-grade only recommended
- ☐ Recreation restriction recommended
- ☐ B-grade only recommended
- ☐ Good time revocation recommended
- ☐ Loss of privileges (identify): _____
- _____
- _____
- _____
- _____
- _____

☐ Other (identify): _____

Mental Health Review completed by:

Mary Wilson
Name (Print)
SignatureMHP
Title12/22/17
Date

Received on
3/6/19ILLINOIS DEPARTMENT OF CORRECTIONS
MENTAL HEALTH DISCIPLINARY REVIEWOffender Name: Fencel MichaelID#: B86752

Disciplinary notification received from Shift Commander: <u>1/8/18</u> Date	Facility: <u>Menard</u>
Disciplinary Report (DOC 0317) received: <u>11/28/17</u> Date	<input type="checkbox"/> Sp/RTU <input checked="" type="checkbox"/> SEG <input type="checkbox"/> GP
Action: <input type="checkbox"/> Stay of continuance until further notice <input checked="" type="checkbox"/> Resume proceedings	<input type="checkbox"/> R&C <input type="checkbox"/> HCU <input type="checkbox"/> PC

Date and Time of Original Disciplinary Report (DOC 0317): 11/28/2017917☒ a.m.
☐ p.m.

List Offense(s):

107 sexual misconductLevel of Care: ☐ Acute Inpatient ☐ Sub-acute Inpatient ☐ Sp/RTU ☒ Outpatient ☐ CrisisWas the offender on crisis watch at the time of offense? ☒ No ☐ YesIs the offender currently on crisis watch? ☒ No ☐ YesCurrent mental status: ☒ Stable ☐ Not Stable

Mental Health Summary: Offender Fencel B86752 has been seen on a routine basis by Mental Health thru means of individual sessions and Psychiatry. Offender Fencel appears to be stable at this time as made evident by the MHP report noted in his last mental health session. According to offenders Fencel medication Administration Record (MAR) he is not on medication. Offender Fencel mental health issues do not appear to have influenced his behavior with regards to the tickets he received on 11/28/17. Offender Fencel has the capabilities to be held accountable for his actions at this time.

ILLINOIS DEPARTMENT OF CORRECTIONS
MENTAL HEALTH DISCIPLINARY REVIEW

Offender Name: Fencel MichaelID#: B86752

Based on offender's mental health status and mental illness it is the reviewing MHP's OPINION that:

- | | No | Yes |
|---|-------------------------------------|--------------------------|
| • The offenders mental illness contributed to the behavior at issue and as reported on the DOC 0317: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • Confinement in segregation is likely to significantly impact the offender's mental health: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| • The offenders mental illness should be considered when imposing discipline (up to and including segregation): | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Recommendations:Proposed segregation term: 6 months

- ☐ Consider reduced segregation time
- ☐ C-grade only recommended
- ☐ Recreation restriction recommended
- ☐ B-grade only recommended
- ☐ Good time revocation recommended
- ☐ Loss of privileges (Identify): _____
- _____
- _____
- _____
- _____

☐ Other (Identify): _____

Mental Health Review completed by:

Mary Wilson
Name (Print)

[Signature]
Signature

MHP
Title

11/9/18
Date

Received on 2/29/18
when mail was passed out.

**STATE OF ILLINOIS – DEPARTMENT OF CORRECTIONS
ADJUSTMENT COMMITTEE
FINAL SUMMARY REPORT**

Name: FENCEL, MICHAEL F IDOC Number: B86752 Race: WHI
 Reporting Date/Time: 1/2/2018 08:01 AM Living Unit: MEN-N2-04-37 Orientation Status: N/A
 Incident Number: 201800004/1 - MEN Status: Final

Incident Date	Ticket #	Incident Officer	Location	Time
1/22/2017	201800004/1-MEN	MASTERSON, ANGELA D	MENARD CORRECTIONAL CENTER	10:55 AM
Offense	Violation	Final Result		
107	Sexual Misconduct Comments: intercourse	Guilty		
Witness Type	Witness ID	Witness Name	Witness Status	

Witness Requested

RECORD OF PROCEEDINGS

Inmate pled both guilty and not guilty
 Written statement attached

ANALYSIS FOR DECISION

Based on the observation of the reporting employee the IDR was rewritten and reserved per the Adjustment committee. Throughout the course of the investigation, offender MICHAEL F. FENCEL B86752 was interviewed multiple times regarding his claim of PREA/Sexual Assault. On December 21, 2017, FENCEL was interviewed again for a Protective Custody intake interview. During the interview, FENCEL self-admitted that he had consensual anal intercourse with offender SHUA W. KRUGER K50218 on November 26, 2017 at approximately 10:30pm to 11:00pm in North Upper Cell House #11 5-47. FENCEL stated in the interview that after the encounter on the 26th, he felt wrong for his willingness to perform sexual acts with KRUGER and reported the sexual acts as PREA/Sexual Assault to the Warden via letter. Based on his admission during interview and the fact that he signed the interview document, FENCEL is guilty of violating Departmental Rule 504A; 107; Sexual Misconduct.

The committee finds inmate guilty based on information provided and accepts the written report to be factual account of the incident and is satisfied the violations occurred as reported.
 The committee finds inmate guilty by the admission of guilt by the offender.
 Mental health reviewed and discussed this inmate's case. Inmate is designated as seriously mentally ill (0443 completed and made part of the record) the Mental health professionals recommended 6 month of segregation.

DISCIPLINARY ACTION (Consecutive to any priors)

RECOMMENDED	FINAL
6 Months C Grade	6 Months C Grade
6 Months Segregation	6 Months Segregation
6 Months Commissary Restriction	6 Months Commissary Restriction

Basis for Discipline: nature of offense



Signatures

Hearing Committee

BROOKMAN, KENT E - Chair Person

HART, JASON N

Recommended Action Approved

	01/02/18	WHI
Signature	Date	Race
	01/02/18	BLK
Signature	Date	Race

Final Comments: N/A

STATE OF ILLINOIS -- DEPARTMENT OF CORRECTIONS
ADJUSTMENT COMMITTEE
FINAL SUMMARY REPORT

Name: FENCEL, MICHAEL F IDOC Number: B86752 Race: WHI
hearing Date/Time: 1/2/2018 08:01 AM Living Unit: MEN-N2-04-37 Orientation Status: N/A
Incident Number: 201800004/1 - MEN Status: Final

JACQUELINE A LASHBROOK / JAL 1/19/2018

Chief Administrative Officer

Signature

01/19/18

Date

The committed person has the right to appeal an adverse decision through the grievance procedure established by Department Rule 504: Subpart F.

Employee Serving Copy to Committed Person

When Served -- Date and Time

Date: <u>12/9/2017</u>	Offender: (Please Print) <u>Michael Fencel</u>	ID#: <u>B-86752</u>
Present Facility: <u>Menard C.C.</u>		Facility where grievance issue occurred: <u>Menard C.C.</u>
NATURE OF GRIEVANCE:		
<input type="checkbox"/> Personal Property <input type="checkbox"/> Mail Handling <input type="checkbox"/> Restoration of Good Time <input type="checkbox"/> ADA Disability Accommodation <input type="checkbox"/> Staff Conduct <input type="checkbox"/> Dietary <input type="checkbox"/> Medical Treatment <input type="checkbox"/> HIPAA <input type="checkbox"/> Transfer Denial by Facility <input type="checkbox"/> Transfer Denial by Transfer Coordinator <input checked="" type="checkbox"/> Other (specify): <u>Assault/Rape</u>		
<input type="checkbox"/> Disciplinary Report: _____ Date of Report _____ Facility where issued _____		
Note: Protective Custody Denials may be grieved immediately via the local administration on the protective custody status notification.		
Complete: Attach a copy of any pertinent document (such as a Disciplinary Report, Shakedown Record, etc.) and send to: Counselor, unless the issue involves discipline, is deemed an emergency, or is subject to direct review by the Administrative Review Board. Grievance Officer, only if the issue involves discipline at the present facility or issue not resolved by Counselor. Chief Administrative Officer, only if EMERGENCY grievance. Administrative Review Board, only if the issue involves transfer denial by the Transfer Coordinator, protective custody, involuntary administration of psychotropic drugs, issues from another facility except personal property issues, or issues not resolved by the Chief Administrative Officer.		
Summary of Grievance (Provide information including a description of what happened, when and where it happened, and the name or identifying information for each person involved): <u>I was assigned to (cell # 547 in the North upper) and after the cell-door was closed my cell-mate started asking personal sexual nature questions. I became very afraid and uncomfortable. At chow, I made a personal request to be moved. The officer stated, "he would check it out and talk to the cell-house sgt." Nothing happened as to a cell change. I made another request to move, to the (3 to 11 pm) shift officer "CROSS". Some how, my cell-mate found out about my request to move. He threatened to physically harm me, if I continue to ask to move. Later that night, I was forcefully removed from my bed, and shoved to the back of the cell. At which time, my cell-mate forced me to perform fellatio and he forced his penis into my anus. The next morning I wrote to warden J. Lashbrook but put my attorney's information on the envelope so</u> Relief Requested: <u>Due to me being sexually assaulted and my low bodyweight. I am requesting to be placed on permanent one-man cell status throughout my stay at Menard Corr. Ctr. Also, to talk with mental health staff about the assault.</u>		
<input checked="" type="checkbox"/> Check only if this is an EMERGENCY grievance due to a substantial risk of imminent personal injury or other serious or irreparable harm to self.		
<u>Michael Fencel</u> Offender's Signature		<u>B-86752</u> ID#
		<u>12, 09, 2017</u> Date

Counselor's Response (if applicable)

Date Received: _____	<input type="checkbox"/> Send directly to Grievance Officer	<input type="checkbox"/> Outside jurisdiction of this facility. Send to Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-8277
Response: _____		

Print Counselor's Name	Counselor's Signature	Date of Response

EMERGENCY REVIEW

Date Received: <u>12, 27, 17</u>	Is this determined to be of an emergency nature? <input type="checkbox"/> Yes; expedite emergency grievance
	<input checked="" type="checkbox"/> No; an emergency is not substantiated. Offender should submit this grievance in the normal manner.
<u>J. J.</u> Chief Administrative Officer's Signature	
<u>12, 27, 17</u> Date	

my cell-mate would not know who I was really writing it to. I also put on the envelope telling the mail room NOT to send it to my attorney but instead send it to the warden J. Lashbrook, Letting her know that my cell-mate had just forced me to have sex with him last night on Nov. 26th 2017 (Between 10:30pm and 11pm) during shift change. I also told the warden J. Lashbrook in the note that I did not trust the C/O's so that is why I am sending it to her. On Nov. 28th 2017 a L.T. & a G/O came and took both my cell-mate and I out of the cell. The L.T. walked me to the H.C.U. at which time, the doctor Siddiqui and two nurses was able to confirm my injuries. I believe that those officers, whom I informed about my fears of being harmed by my cell-mate, were negligent in their duties to protect me from being assaulted.

END OF Grievance.